

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

OP.No. 23801 of 2000(H)

PETITIONER:

**SMT. THANKAMMA,
KALLUVILA HOUSE,
PULAMON P.O., KOTTRAKKARA,
KOLLAM DISTRICT, KERALA STATE.**

**BY ADV. SRI.MVS.NAMBOOTHIRY
SRI.S.SANTOSH KUMAR (PERUNAD)**

RESPONDENTS:

- 1. UNION OF INDIA, REPRESENTED BY THE
SECRETARY, MINISTRY OF HOME AFFAIRS, NEW DELHI.**
- 2. DIRECTOR GENERAL,
CENTRAL RESERVE POLICE FORCE,
K.K.PARISAR, LODHI ROAD, NEW DELHI.**
- 3. THE JOINT ASSISTANT DIRECTOR (PENSION),
C.R.P.F., NEW DELHI.**
- 4. THE COMMANDANT,
44TH BN.CRPF TAMENGLONG, MANIPUR.**

**BY ADV. SRI.SAJEESH.K.B., ADDL.CGSC
SRI.JOHN VARGHESE, SCGSC
SRI.S.R.AJITH, ADDL.CGSC**

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

ORDER ON C.M.P.NO.40113/2000 IN O.P.NO.23801/2000 H

DISMISSED

24/07/2007

**SD/-THOTTATHIL B.RADHAKRISHNAN,
J U D G E.**

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF THE RELINQUISHMENT LETTER DTD. NIL.**
- EXT.P2; COPY OF THE LETTER SENT BY THE PETITIONER TO THE 4TH
RESPONDENT DTD.NIL.**
- EXT.P3: COPY OF THE LETTER ISSUED BYTHE 4TH RESPONDENT TO
THE PETITIONER DTD. 27/02/1979.**
- EXT.P4: COPY OF THE LETTER SENT FROM THE OFFICE OF THE 4TH
RESPONDENT TO THE SUPDT. OF POLICE, KOLLAM DTD.NIL.**
- EXT.P5: COPY OF THE NOTICE DTD. 29/04/2000 TO THE 4TH
RESPONDENT.**
- EXT.P6: COPY OF THE ORDER DTD. 12/07/2000 ISSUED BY THE
2ND RESPONDENT.**

/TRUE COPY/

P.S.TO JUDGE

KSS

THOTTATHIL B. RADHAKRISHNAN, J.

= = = = =

O.P.No. 23801 of 2000-H

= = = = =

Dated this the 24th day of July, 2007.

JUDGMENT

The petitioner's son T.George died while serving the Central Reserve Police Force. Following his death on 24-10-1976, his widow Smt.Leelamma was paid family pension under Rule 54 of the Central Civil Services (Pension) Rules, 1972, hereinafter referred to as the "CCS Pension Rules". Those Rules, indisputably, apply, going by Ext.P3 communication. The widow remarried on 17-4-1980 and thereby forfeited her claim for family pension. She promptly informed the CRPF by her relinquishment, evidenced by Ext.P1. The mother of the deceased thereupon claimed family pension. She made such request as per Ext.P2 in November, 1976. As per Ext.P3, she was

told that Leelamma has been asked whether she is willing to relinquish her right to receive pensionary benefits. Though Ext.P4 followed, Ext.P6 communication has been issued on 12-7-2000 whereby the Deputy Commandant (Welfare) in the Directorate General, CRPF has informed the petitioner that the pension to the widow Smt.Leelamma was stopped with effect from 17-4-1980 on account of her re-marriage and that the petitioner's request for sanction of pension as the mother, on the re-marriage of the widow, is not covered by any rules and therefore, the petitioner is not entitled to family pension.

2. In opposition to this writ petition filed challenging the aforesaid decision, a counter affidavit is placed on record contending that the death of the constable was one which attracted eligibility for the widow to draw extra-ordinary family pension under the Central Civil Services (Extraordinary Pension) Rules, hereinafter referred

to as the "EO Pension Rules" and therefore, the widow was given such benefit and that as per Rule 12(1) of the EO Pension Rules, the widow will cease to draw family pension on re-marriage. The respondents further contend that there is no rule authorizing sanction of pension to the mother after re-marriage of the widow and therefore, the petitioner is not entitled to grant of pension.

3. With effect from 1-1-1996 revised provisions have been issued as per Government of India's Decisions under the EO Pension Rules following the recommendations of the Fifth Central Pay Commission. The late son of the petitioner would fall under Category 'C' among the five distinct categories falling under paragraph 1 of that Decision. In terms of clause (i) in paragraph 3 in terms of O.M.No.45/55/97-P.& P.W.(C) dated 11-9-1998, family pension is available for Category 'C', whereby dependent parents shall be paid family pension at one half the rate

applicable to widows.

4. In terms of the EO Pension Rules, as already noticed, there is provision for pension for the mother of a deceased constable of CRPF, at least, with effect from 1-1-1996. If I were to go to the provisions of the Pension Rules and look at Rule 54 thereof, the definition of "family" for the purpose of that rule is seen to have been amended with effect from 1-1-1996 as per O.M.No.F45/86/97-P-PW(A) Part I dated 27-10-1997, whereby the wholly dependent parent would also fall within the definition of "family". Either way, the petitioner's case ought not to have been rejected as has been done as per the impugned Ext.P6.

5. For the aforesaid reasons, the impugned Ext.P6 is quashed and the respondents are directed to take a final decision on the request of the petitioner for pension, be it as family pension under the Pension Rules or as pension

available under the EO Pension Rules. Such decision shall be taken within a period of 45 days from the date of receipt of a copy of this judgment and such decision shall be communicated to the Registrar General of this Court and to the petitioner. All amounts found due shall be made available to the petitioner and all arrears of such amounts until date of payment shall carry interest at the rate of 8.5% per annum. Having regard to the order for interest, no order of costs is being issued against the respondents.

The writ petition is allowed in the above terms.

Sha/-

**THOTTATHIL B. RADHAKRISHNAN,
JUDGE.**

OP23801/06

-: 6 :-

THOTTATHIL B. RADHAKRISHNAN, J.

= = = = =

O.P.No. 23801 of 2000-H

= = = = =

JUDGMENT

Dated: 24th July, 2007.